

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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TA No.1024 of 2021 (O&M)

Date of decision: 09.03.2023

Manpreet Kaur @ Preeti and another**...Petitioners****vs****Jaswinder Singh****...Respondent****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Anil Kumar Bhardwaj, Advocate for the petitioners.

Mr. SS Kamboj, Advocate for the respondent.

NIDHI GUPTA, J.(Oral)

1. Prayer in this petition filed by petitioners-husband and wife, is for transfer of the petition filed by respondent-father of first husband of petitioner No.1, under Sections 7 and 25 of the Guardians and Wards Act, 1890, titled "Jaswinder Singh vs. Manpreet Kaur @ Preeti and another" pending in the Court of Principal Judge, Family Court, Patiala to a court of competent jurisdiction at Derabassi (District SAS Nagar).

2. Learned counsel for the petitioners, inter alia, submits:

i) that the petitioner No.1 solemnized her second marriage with petitioner No.2 on 10.06.2020.

ii) that first husband of petitioner No.1 expired on 28.02.2019, and respondent is the father of first husband of petitioner No.1.

iii) that one son was born out of the first wedlock of petitioner No.1, who is admittedly in the care and custody of the petitioners at Derabassi.

iv) that the petitioners are working and earlier due to inability of petitioner No.1 to attend the court proceedings, she was proceeded against ex parte before the Family Court, Patiala.

v) that as per Section 9 of the Guardian and Wards Act, 1890, respondent has to file the petition for custody where the minor ordinarily resides.

vi) that the distance between the place of residence and place of proceedings is 63 kms. (one side)

3. Learned counsel for the respondent is unable to dispute the aforesaid factual and legal position. He further states that petitioners are not properly taking care of the minor child.

4. I have heard learned counsel for the parties.

5. The legal position in such like cases as the present one, is well established. As per Section 9 of the Guardians and Wards Act, 1890, petition for custody of the minor child is required to be filed where the minor child ordinarily resides. In the present case, admittedly, minor child is presently residing with the petitioners at Derabassi.

6. After hearing the learned counsel for the parties, this Court deems it appropriate to allow the present petition, subject to the following conditions:-

a) The petition filed by respondent-father of first husband of petitioner No.1 under Sections 7 and 25 of the Guardians and Wards Act, 1890, titled “Jaswinder Singh vs. Manpreet Kaur @ Preeti and another” pending in the Court of Principal Judge, Family Court, Patiala is transferred to a court of competent jurisdiction at Derabassi (District SAS Nagar).

b) The Id. District Judge, Patiala is directed to transfer complete record pertaining to the aforesaid case to District Judge, SAS Nagar.

- c) The parties, through their counsel, are directed to appear before the District & Sessions Judge, SAS Nagar on 10.04.2023.
- d) The District Judge, SAS Nagar will assign the said petition to the Court of competent jurisdiction.

7. Disposed of.

09.03.2023

ashok

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)

Judge